

TOWN OF KITTERY, MAINE
BOARD OF APPEALS

APPROVED
August 5, 2014

Members present: Brett Costa, Acting Chairman, Craig Wilson, Gary Beers, Niles Pinkham, Brian Boyle
Members absent: None
Staff: Heather Ross, Code Enforcement Officer

The meeting was called to order at 7:02 p.m.

Pledge to the Flag

Mr. Wilson noted Title 16.1.5.2.F. authorizes the Board of Appeals to hear the following Miscellaneous Variation.

ITEM 1: Keith and Kathleen Sheehan, Map 42 Lot 20, 481 Haley Road, zoned R-RL, requesting a Miscellaneous Variation to the terms of Title 16, Chapter 3, Section 2.1D in order to demolish an existing porch and to construct a new enclosed porch and deck.

Keith Sheehan summarized their request, stating the porch is their primary egress and it was rotted and pulling away from the house. The house was built in the 1880s and sits 20 feet from the road. The porch is flush to the house and the replacement porch will remain on the existing footprint.

There was no public comment. The CEO provided:

1. This is a conforming lot with a nonconforming structure located in the Residential-Rural zone.
2. The Sheehan's have proposed to demolish an existing porch and stairs and to construct a new enclosed porch, deck and stairs. The existing porch was roofed, and they now want to partially enclose the porch.
3. Title 16.3.2.1.D requires a minimum 40-foot front property setback. The proposed enclosed porch, porch and stairs are no more non-conforming than the existing deck and stairs. The stairs were 13 feet from the front property line. The proposed enclosed porch will remain flush with the house, and the new stairs will project to the same location.

Mr. Pinkham: Are there any issues with enclosing a portion of the porch?

Ms. Ross: No, as the former porch had a roof it is still a building by definition

Mr. Beers: The request is in keeping with Title 16.6.6.1 and 2 and with Title 16 regarding non-conforming reconstruction.

Mr. Boyle: This appears to be no closer than existing conditions, and has no issues.

Mr. Wilson: Are the existing stairs subject to setback requirements?

Ms. Ross: Stairs are subject to setback requirements if they are greater than 3 feet wide.

Mr. Wilson: The application appears in compliance with all conditions of Title 16.6.6, Basis for Decision, and recommends approval.

Mr. Beers moved to grant a miscellaneous variation to the terms of Title 16.3.2.1.D to Keith and Kathleen Sheehan, for property located at 481 Haley Road, Map 42 Lot 20, in order to demolish an existing porch and to construct a new enclosed porch, deck and stairs on the existing footprint.

Mr. Pinkham seconded

Motion carried unanimously

Findings of Fact:

1. Keith Sheehan requested a miscellaneous variation to the terms of Title 16.3.2.1.D for his property located at 481 Haley Road, Map 42 Lot 20.

2. Mr. Sheehan proposes to demolish an existing porch and to construct a new enclosed porch, deck and stairs on the existing footprint.
3. Mr. Sheehan provided a history of the structure, reporting that the existing porch was beyond repair with considerable rot, and was pulling away from the house.
4. The lot is conforming, but the structure is non conforming, with a front setback of 13 feet where 40 feet is required.
5. The new structure will be constructed no closer to the front setback than existing structure.

Mr. Pinkham moved to accept the Findings of Fact as read
Mr. Boyle seconded
Motion carried unanimously

Conclusion:

The Board has the authority under Title 16.7.3.5.5 Nonconforming Structure and Repair, to grant a Miscellaneous Variation where the nonconformity is found to be no more nonconforming.

Mr. Beers moved to accept the Conclusion as read
Mr. Boyle seconded
Motion carried unanimously

Mr. Costa noted this approval is not the issuance of a building permit, and any aggrieved party has 45 days to appeal this decision to Superior Court.

Minutes: June 10, 2014

Mr. Wilson moved to accept the minutes of June 10, 2014 as amended
Mr. Beers seconded
Motion carried unanimously

Mr. Beers: Requested the Board consider adopting bylaws and include discussion of such on a future agenda. He presented a prepared draft of bylaws for consideration. Discussion followed regarding the bylaws and election of officers, and the need for a public meeting agenda.

Ms. Ross: There are code requirements regarding notification and publishing of appeals

Mr. Wilson moved to have the Chair and the CEO develop a sample agenda, including hearings, and to be posted and included in Board packets.

Mr. Beers seconded
Motion carried with 4 in favor; 0 against; 1 abstention (Pinkham)

A hearing is scheduled for August 19. There is a potential appeal scheduled for September 9.
A review of the bylaws was preliminary scheduled for discussion on September 23.

Mr. Wilson moved to adjourn
Mr. Beers seconded
Motion carried by all members present

The Board of Appeals meeting of August 5, 2014 adjourned at 7:45 p.m.

Submitted by Jan Fisk, Recorder, August 6, 2014